

## SENATE BILL NO. 27

INTRODUCED BY R. HOLDEN

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING PROPERTY AND CASUALTY INSURERS TO PROVIDE PREMIUM DISCOUNTS OR RATING OR PREMIUM REDUCTIONS BASED ON MARITAL STATUS AS LONG AS ANY DISCOUNT OR REDUCTION IS NOT SUBSIDIZED BY ANY OTHER CLASS OF INSUREDS; AMENDING SECTIONS 33-18-210 AND 49-2-309, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 33-18-210, MCA, is amended to read:

**"33-18-210. Unfair discrimination and rebates prohibited -- property, casualty, and surety ~~insurances~~ insurance.** (1) ~~A~~ Except as provided in subsection (7), a title, property, casualty, or surety insurer or an employee, representative, or insurance producer of an insurer may not, as an inducement to purchase insurance or after insurance has been effected, pay, allow, or give or offer to pay, allow, or give, directly or indirectly, a:

(a) rebate, discount, abatement, credit, or reduction of the premium named in the insurance policy;

(b) special favor or advantage in the dividends or other benefits to accrue on the policy; or

(c) valuable consideration or inducement not specified in the policy, except to the extent provided for in an applicable filing with the commissioner as provided by law.

(2) ~~An~~ Except as provided in subsection (7), an insured named in a policy or an employee of the insured may not knowingly receive or accept, directly or indirectly, a:

(a) rebate, discount, abatement, credit, or reduction of premium;

(b) special favor or advantage; or

(c) valuable consideration or inducement.

(3) An insurer may not make or permit unfair discrimination in the premium or rates charged for insurance, in the dividends or other benefits payable on insurance, or in any other of the terms and conditions of the insurance either between insureds or property having like insuring or risk characteristics or between insureds because of race, color, creed, religion, or national origin.

(4) This section may not be construed as prohibiting the payment of commissions or other compensation to duly licensed insurance producers or as prohibiting an insurer from allowing or returning lawful dividends, savings, or unabsorbed premium deposits to its participating policyholders, members, or subscribers.

(5) An insurer may not make or permit unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:

(a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or

(b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

(6) An insurer may not make or permit unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk or on the personal property contained in the residential property, because of the age of the residential property, unless:

(a) the refusal, cancellation, or limitation is for a business purpose that is not a mere pretext for unfair discrimination; or

(b) the refusal, cancellation, or limitation is required by law or regulatory mandate.

(7) An insurer may not refuse to insure, refuse to continue to insure, or limit the amount of coverage available to an individual because of the sex or marital status of the individual. However, an insurer may take marital status into account for the purpose of defining persons eligible for dependents' benefits and may provide discounts or rating or premium reductions to an insured based on the insured's marital status AS LONG AS ANY DISCOUNT OR REDUCTION IS NOT SUBSIDIZED BY ANY OTHER CLASS OF INSURED.

(8) An insurer may not terminate or modify coverage or refuse to issue or refuse to renew a property or casualty policy or contract of insurance solely because the applicant or insured or any employee of either is mentally or physically impaired. However, this subsection does not apply to accident and health insurance sold by a casualty insurer, and this subsection may not be interpreted to modify any other provision of law relating to the termination, modification, issuance, or renewal of any insurance policy or contract.

(9) An insurer may not refuse to insure, refuse to continue to insure, charge higher rates, or limit

1 the amount of coverage available to an individual based solely on adverse information contained in a  
2 driving record that is 3 years old or older. However, an insurer may provide discounts to an insured based  
3 on favorable aspects of an insured's claims history that is 3 years old or older.

4 (10) An insurer may not charge points or surcharge a private passenger motor vehicle policy  
5 because of a claim submitted under the insured's policy if the insured was not at fault.

6 (11) (a) For the purposes of this subsection (11), "credit history" means that portion of a credit  
7 report or background report that addresses the applicant's or insured's debt payment history or lack of  
8 history but does not include public information, including convictions, lawsuits, bankruptcies, or similar  
9 public information.

10 (b) An insurer writing automobile or homeowner insurance may not refuse to insure, refuse to  
11 continue to insure, charge higher rates, or limit the scope or amount of coverage or benefits available to  
12 an individual based solely on the insurer's knowledge of the individual's credit history unless:

13 (i) the insurer possesses substantial documentation that credit history is significantly correlated  
14 with the types of risks insured or to be insured;

15 (ii) the insurer sends written communication to the individual disclosing that the insurance coverage  
16 was declined, not renewed, or limited in scope or amount of coverage or benefits because of credit  
17 information relating to the applicant or the insured; and

18 (iii) upon subsequent request of the individual, mailed within 10 days of receipt of the denial,  
19 nonrenewal, or limitation, the insurer provides the individual with a copy of the credit report at issue or  
20 the name and address of a third party from whom the individual may obtain a copy of the credit report,  
21 within 10 days of receipt of the request.

22 (c) The provisions of this subsection (11) are not intended to conflict with any disclosure  
23 provisions of state law or the federal Truth in Lending Act applicable to lending institutions, credit bureaus,  
24 or other credit service organizations that maintain or distribute credit histories on insurance applicants or  
25 policyholders."

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27 **Section 2.** Section 49-2-309, MCA, is amended to read:

28 **"49-2-309. Discrimination in insurance and retirement plans.** (1) It is an unlawful discriminatory  
29 practice for a financial institution or person to discriminate solely on the basis of sex or marital status in  
30 the issuance or operation of any type of insurance policy, plan, or coverage or in any pension or retirement

1 plan, program, or coverage, including discrimination in regard to rates or premiums and payments or  
2 benefits.

3 (2) This section does not apply to any insurance policy, plan, or coverage or to any pension or  
4 retirement plan, program, or coverage in effect prior to October 1, 1985.

5 (3) It is not a violation of the prohibition against marital status discrimination in this section for:

6 (a) an employer to provide greater or additional contributions to a bona fide group insurance plan  
7 for employees with dependents than to those employees without dependents or with fewer dependents;

8 or

9 (b) a property or casualty insurer to provide discounts or rating or premium reductions to an  
10 insured based on marital status, AS PROVIDED IN 33-18-210."

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12 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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14 NEW SECTION. **Section 4. Applicability.** [This act] applies to all property and casualty insurance  
15 policies issued or renewed on or after July 1, 2001.

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